

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION**

NO. 2:11-MJ-01184-WW-1

UNITED STATES OF AMERICA,)	
)	
v.)	<u>ORDER CERTIFYING</u>
)	<u>EXTRADITABILITY</u>
ISIDRO HINJOSA BENAVIDES,)	
)	
Defendant.)	
_____)	

This cause comes before the Court upon a motion filed by the United States of America, acting on behalf of the government of the Republic of Chile, to certify the extraditability of defendant Isidro Hinjosa Benavides. (DE-15). Pursuant to 18 U.S.C. § 3184, the undersigned conducted an extradition hearing on December 15, 2011, at which Defendant was present and represented by counsel. (DE-20). At the hearing, Defendant did not contest extradition. For the reasons stated herein, the motion to certify the extraditability of defendant Isidro Hinjosa Benavides (DE-15) is GRANTED.

DISCUSSION

The issue before the Court is whether the offenses with which Benavides is charged in Chile are extraditable under the Treaty with the United States. Specifically, in an extradition proceeding, a court must determine: (1) whether the United States and the country seeking extradition (here, Chile) are parties to a valid extradition treaty; (2) whether the accused is in fact the person who has been charged by the requesting state; (3) whether the arrest warrant from Chile is outstanding; (4) whether the offenses of which the accused is charged are extraditable

under the Treaty; and (5) whether there is probable cause to believe the accused committed the crime. *See, e.g., In re Extradition of Coleman*, 473 F. Supp. 2d 713, 714 (N.D. W. Va. 2007).

The United States filed its Complaint under oath on November 21, 2011, charging Benavides with having committed within Chile crimes provided for by the Treaty. (DE-1). The United States attached to its Complaint three exhibits: (1) the declaration of Jennifer Landside, Attorney-Adviser in the State Department Office of the Legal Adviser, which includes copies of the diplomatic note and Treaty; (2) the original documents submitted by Chilean authorities in support of the extradition request; and (3) the certified English translation of the documents supporting extradition. The exhibits were properly authenticated by certification of the principal American diplomatic or consular officer at the United States Embassy in Santiago, Chile, pursuant to 18 U.S.C. § 3190. After the Complaint was filed, the undersigned issued a warrant for Benavides' arrest on November 21, 2011. (DE-2).

The United States has also attached to its motion to certify extraditability and supporting memorandum a statement of the offense signed by Benavides in which he admits the criminal conduct forming the basis of the Complaint. Based upon the information and exhibits provided by the United States, none of which Benavides contests, the undersigned finds as follows:

1. This Court had jurisdiction over Benavides;
2. There is an extradition treaty in full force and effect between the United States of America and Chile;
3. The crimes for which Benavides' surrender is requested are covered by the Treaty;
4. The crimes for which Benavides' surrender is requested are punishable under the laws of both the United States and Chile by imprisonment for more than one year;

5. The crimes for which Benavides' surrender is requested are not of a political nature within the meaning of any provision barring extradition for such crimes; and

6. There is competent legal evidence to support the finding of probable cause as to each charge for which extradition is sought.

Accordingly, it is hereby ADJUDGED, DECREED, AND ORDERED as follows:

The United States District Court for the Eastern District of North Carolina, by the undersigned United States Magistrate Judge, hereby certifies to the Secretary of State that:

(a) With respect to Benavides, a fugitive from Chile who was found in this judicial district, the United States Government, acting on behalf of the Government of Chile, has provided "evidence sufficient to sustain the charges against Benavides under the provisions of the proper treaty or convention" as required by 18 U.S.C. § 3184.

(b) The charges against Benavides are those set forth in the affidavits and sworn Complaint upon which Benavides' arrest was made in this district.

(c) All applicable requirements of Chapter 209 of Title 18 of the United States Code for the extradition of Benavides to Chile have been met.

(d) The transcripts and copies of records from Chile that accompany this certification constitute "a copy of all the testimony taken" in this matter as provided for in 18 U.S.C. § 3184.

DONE AND ORDERED in Chambers at Raleigh, North Carolina this 15th day of December, 2011.



WILLIAM A. WEBB
UNITED STATES MAGISTRATE JUDGE